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HUMAN RIGHTS COMMITTEE

Forty-eighth session

SUMMARY RECORD OF THE 1261st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 29 July 1993, at 3 p.m.

Chairman: Mr. ANDO

CONTENTS

Annual report of the Committee to the General Assembly through the Economic and Social Council under article 45 of the Covenant and article 6 of the Optional Protocol (continued)

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The meeting was called to order at 3.20 p.m.

ANNUAL REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY THROUGH THE ECONOMIC AND SOCIAL COUNCIL UNDER ARTICLE 45 OF THE COVENANT AND ARTICLE 6 OF THE OPTIONAL PROTOCOL (agenda item 7) (continued)

1. The CHAIRMAN invited members to resume their consideration of the documents comprising the draft annual report of the Committee.

Document CCPR/C/48/CRP.1/Add.1 (Chapter II. Action by the General Assembly at its forty-seventh session)

2. Mr. AGUILAR URBINA (Rapporteur) reminded the Committee that the text concerning the Committee's contribution to the World Conference on Human Rights and including references to the documents submitted on the Committee's behalf, had been approved at the previous meeting. Mr. Pocar had suggested that it should be the subject of a sixth paragraph at the end of chapter II.

3. Mr. POCAR also suggested the deletion of the words "the necessary" from the fifth line of paragraph 3.

4. Mr. HERNDL, referring to the same paragraph, suggested that for accuracy's sake, the Secretariat should determine whether the phrase "the Third Committee's positive comments" should not read "positive comments by delegations in the Third Committee".

5. Document CCPR/C/48/CRP.1/Add.1, as amended, was adopted.

Document CCPR/C/48/CRP.1/Add.2 (Chapter III. Reports by States parties submitted under article 40 of the Covenant)

A. Submission of reports

6. Mr. HERNDL suggested that paragraph 7 might be prefaced by a subheading, reading, for example, "Requests for special reports", in order to underline the exceptional nature of the Committee's action with respect to the countries of the former Yugoslavia.

7. Mr. AGUILAR URBINA (Rapporteur) pointed out that paragraph 7 formed part of the narrative concerning the Committee's handling of reports by States during the period under review; as was recalled in paragraph 11, the Committee had - during the same period - also addressed special requests to the Governments of El Salvador, Haiti, the Sudan and Zaire. He did not believe that the suggested heading was called for. The texts of the letters to the Governments of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) would be annexed to the report.

8. Mr. EL SHAFEI suggested that the word "guarantees" in the first sentence of paragraph 7 should be replaced by the more comprehensive and habitual word "protection".

9. Mr. AGUILAR URBINA (Rapporteur) said that the wording of the first part of paragraph 7 corresponded exactly to that used in the communications addressed by the Committee to the States concerned.

10. Mrs. HIGGINS, noting that the wording used in the initial part of paragraph 7 was identical with that used at the beginning of each of the summaries of the Committee's consideration of reports by the States concerned, submitted that the text did not adequately reflect the legal basis of the Committee's decision. She therefore proposed that, subject to final editorial adjustment, the wording in question should be expanded to read: "Noting that all the peoples within the territory of the former Yugoslavia are entitled to the guarantees of the Covenant, and finding that the new States within the boundaries of the former Yugoslavia have succeeded to the obligations of the former Yugoslavia under the Covenant, in so far as their respective territories are concerned, and acting under article 40, paragraph 1 (b), of the Covenant ...".

11. Mr. AGUILAR URBINA (Rapporteur) reiterated that the text in question corresponded with that used in the communications addressed to the States. Consistency might be desirable.

12. Mr. MAVROMMATIS and Mr. POCAR endorsed the suggestion by Mrs. Higgins.

13. Section A of document CCPR/C/48/CRP.1/Add.2, as amended, was adopted.

B. Consideration of reports

14. Mr. AGUILAR URBINA (Rapporteur) suggested that for the sake of clarity and in the interests of uniformity, the following editorial guidelines might be adopted in the drafting of all summaries of the Committee's consideration of State party reports: accounts of discussions based on questions posed in lists of issues would be prefaced by "The Committee wished/also wished to know ..."; additional inquiries by members would be prefaced by "Members of the Committee also wished to know ..."; separate headings might be used to establish a distinction between the concluding observations by individual members and any final remarks by the representatives of the State concerned and by the Chairman of the Committee; any comments by the Committee as a whole would be reported on in a uniform fashion.

15. Mr. POCAR said that he agreed with the first, second and fourth of the Rapporteur's suggestions, but would be reluctant to accept the third: to devise a heading for accounts of State representatives' final remarks, which were generally very brief, might serve as an encouragement to prolixity.

16. Section B of document CCPR/C/48/CRP.1/Add.2 was adopted, subject to those comments.

17. Document CCPR/C/48/CRP.1/Add.2 as a whole, as amended, was adopted.

Document CCPR/C/48/CRP.1/Add.3 (Chapter III. Consideration of reports - Burundi)

18. Mr. EL SHAFEI suggested that the word "elucidated" in the final sentence of paragraph 9 should be replaced by "investigated". He further suggested that the phrase "until such time as there was ethnic cleansing", in paragraph 19, should be modified to read "as long as there was ethnic cleansing".

19. Document CCPR/C/48/CRP.1/Add.3, as amended, was adopted.

Document CCPR/C/48/CRP.1/Add.4 (Chapter III. Consideration of reports - Senegal)

20. Mr. AGUILAR URBINA (Rapporteur) pointed out that the blanks in paragraphs 28 and 29, concerning the comments of the Committee as a whole, would be duly completed. A new paragraph 30 would be added to read: "The Committee received a communication from the State party referring to the general comments of the Committee, which has been filed under ...", with the appropriate reference number. That would be the sole reference to the communication in question.

21. Document CCPR/C/48/CRP.1/Add.4, as amended, was adopted.

Document CCPR/C/48/CRP.1/Add.5 (Chapter III. Consideration of reports - Luxembourg)

22. In response to a question by Mr. HERNDL, the CHAIRMAN confirmed that the final version of the annual report would reflect, in the chapter devoted to the summaries of the consideration by the Committee of States parties' reports, the Committee's decision, at its 1123rd meeting, that at the conclusion of its consideration of a report, it would adopt comments reflecting the views of the Committee as a whole.

23. Document CCPR/C/48/CRP.1/Add.5 was adopted.

Document CCPR/C/48/CRP.1/Add.6 (Chapter III. Consideration of reports - United Republic of Tanzania)

24. Mr. AGUILAR URBINA (Rapporteur) said that the heading before paragraph 20 should read "Equality of the sexes, non-discrimination and rights of persons belonging to minorities" and that the phrase "the Committee wished to know" should be inserted between "issues" and "whether" in that paragraph. Paragraphs 32 and 33 would be duly completed.

25. Document CCPR/C/48/CRP.1/Add.6, as amended, was adopted.

Document CCPR/C/48/CRP.1/Add.7 (Chapter III. Consideration of reports - Islamic Republic of Iran (1st part))

26. Mr. AGUILAR URBINA (Rapporteur) pointed out that the summary of the consideration by the Committee, during its forty-sixth, forty-seventh and forty-eighth sessions, of the second periodic report of the Islamic Republic of Iran was contained in three draft documents, the third of which had not yet been distributed. The Committee might, however, wish to adopt the first two parts, and take up the third when it became available.

27. Mr. POCAR pointed out that paragraph 1 would need to be completed. Since the full summary would be reproduced in consecutive paragraphs in the final text of the Committee's annual report, he would suggest that there should be an editorial indication of the sessions to which the contents of the various paragraphs referred.

28. Document CCPR/C/48/CRP.1/Add.7 was adopted on that understanding.

Document CCPR/C/48/CRP.1/Add.8 (Chapter III. Consideration of reports - Islamic Republic of Iran)

29. Mrs. EVATT asked for clarification of the expression "With regard to the drug trafficking with death", in the third sentence of paragraph 1. Referring to paragraph 5, she said that it was the Committee's practice to refer to the punishment of stoning as "lapidation". Paragraph 7 referred to "release of a sentenced person who had served her term". Since the vast majority of convicted prisoners were male, the word "her" should be replaced by "his".

30. Mr. AGUILAR URBINA (Rapporteur) said that the expression "drug trafficking with death" appeared in the Spanish text as "la sanción del tráfico de drogas".

31. Mr. HERNDL said that the phrase "since that form of torture existed under Islamic law", in paragraph 5, should be amended to read "since that form of punishment existed under Islamic law".

32. Miss CHANET referred to the statement, in paragraph 2, concerning the case of an assistant professor at the University of Tabriz. It was in fact she herself who had referred to that case, one of a number raised in a report by the Special Representative of the Commission on Human Rights, Mr. Galindo Pohl. She questioned the usefulness of singling out that case for special mention in the Committee's report.

33. Mrs. HIGGINS thought that, in fairness, the specific answer provided by the Iranian representative regarding that case should be reflected in the report. She proposed redrafting the sentence to read: "Referring to the case that had been raised by a Committee member of an assistant professor [...], the representative stated that ...". With regard to Mrs. Evatt's query, she suggested that the expression "With regard to the punishment of drug trafficking by death" would be preferable to the existing text.

34. Mr. BRUNI CELLI said that some reference should be made to the fact that, responding to members' questions regarding the allegations contained in the report by Mr. Galindo Pohl, the Iranian representative had stated that no extrajudicial executions had taken place in the Islamic Republic of Iran.

35. Mr. AGUILAR URBINA (Rapporteur) said that the point made by Mr. Bruni Celli was important, but should rather be reflected in document CCPR/C/48/CRP.1/Add.7.

36. Document CCPR/C/48/CRP.1/Add.8, as amended, was adopted.

Document CCPR/C/48/CRP.1/Add.10 (Chapter III. Consideration of reports - Venezuela)

37. Document CCPR/C/48/CRP.1/Add.10 was adopted.

Document CCPR/C/48/CRP.1/Add.11 (Chapter III. Consideration of reports - Bosnia and Herzegovina)

38. Mr. HERNDL asked whether, as a question of principle, the report should deal with the three reports of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) in the usual way, namely, in chronological order; or whether it should highlight them by making them the subject of a separate sub-chapter or chapter. He favoured the latter alternative. Turning to addendum 11, he said that the word "membership", in the second unnumbered paragraph, should be replaced by the word "composition".

39. Mr. POCAR said he saw the virtue of Mr. Herndl's argument. However, he favoured dealing with the three special reports in chronological order, as had been the Committee's practice in the past.

40. On the substance of addendum 11, he said that it was his recollection that the Republic of Bosnia and Herzegovina had orally confirmed, rather than "shown", that it had succeeded to the obligations of the former Socialist Federal Republic of Yugoslavia under the Covenant; and that the Committee had requested written confirmation that that was the case.

41. Mrs. HIGGINS said it was her recollection that the Committee had interpreted the silence of the delegation of Bosnia and Herzegovina on the matter as an affirmation that it had succeeded to those obligations. The question could be cleared up by reference to the relevant summary record. She recalled that the Committee had agreed that each of the three sections dealing with the States of the former Yugoslavia would mention the question of that succession.

42. Miss CHANET said that, with regard to the question of principle raised by Mr. Herndl, she favoured retaining the presentation of the three sections in their current format.

43. Mr. HERNDL, alluding to the first paragraph of addendum 11, said the report should reflect the actual wording of the Committee's decision, by referring to "a short report on certain issues in respect of persons and

events now coming under the Government's jurisdiction". That amendment also applied to the sections dealing with the reports of Croatia and of the Federal Republic of Yugoslavia (Serbia and Montenegro).

44. Mr. DIMITRIJEVIC said that the figure of 165,000 in the third paragraph referred to persons who had lost their lives, not to persons who had been executed.

45. Mr. PRADO VALLEJO suggested deleting the words "Generally speaking" at the start of the seventh paragraph.

46. Referring to the section dealing with concluding observations by members of the Committee, he proposed the replacement of the words "They were pleased to note that" in the second sentence by "The Committee noted that".

47. Mr. EL SHAFEI questioned the correctness of the expression "legally responsible for everything which had happened" in the same sentence. Was that in fact true?

48. Mr. AGUILAR URBINA (Rapporteur) said that the representative of Bosnia and Herzegovina had used those exact words - deliberately since they in effect established a claim to the territory which was not all under Bosnian control.

49. Mrs. HIGGINS confirmed the Rapporteur's understanding of the words spoken by the representative of Bosnia and Herzegovina. The legal point which he had been making was that the territory was entirely Bosnian, irrespective of whose control it was under. It was in fact a highly significant political declaration, rejecting the exercise of any de facto sovereignty over the territory.

50. Mr. DIMITRIJEVIC proposed as alternative wording "legally responsible for everything attributable to its authority".

51. Mr. POCAR said he also clearly remembered the words spoken.

52. Mr. AGUILAR URBINA (Rapporteur) said that there was no doubt whatever that the words recorded were the exact words spoken. It would be quite wrong to make a change merely in order to bring them into line with the Committee's views of what the speaker might have intended to say.

53. Miss CHANET and Mr. PRADO VALLEJO endorsed what had been said by the Rapporteur.

54. The CHAIRMAN said that the beginning of the sentence under discussion would read: "The Committee noted that ...".

55. Document CCPR/C/48/CRP.1/Add.11, as amended, was adopted.

Document CCPR/C/48/CRP.1/Add.12 (Chapter III. Consideration of reports - Croatia)

56. Mr. DIMITRIJEVIC recalled that an important exchange had taken place between members of the Committee and the delegation on the question of the responsibility of Croatia for elements of the Croatian army operating in Bosnia. Perhaps Mrs. Higgins, who had raised the matter at the time, could supply a draft text.

57. The CHAIRMAN said that the matter would be taken care of by the Rapporteur.

58. Mr. POCAR said that the first paragraph on page 9 was too weak and should be strengthened at least by including the word "deep" or "great" before "concern". Although Mr. Dimitrijevic's point regarding the exchanges between the Committee and the Croatian delegation was to some extent covered by the Chairman's statement, as reflected in the final paragraph, on the "responsibility devolving upon States parties", that again could have been more forcefully expressed. In the final sentence of the document, he proposed replacing the words "extended to" by "followed by accession to".

59. Document CCPR/C/48/CRP.1/Add.12, as amended, was adopted.

Document CCPR/C/48/CRP.1/Add.13 (Chapter III. Consideration of reports - Federal Republic of Yugoslavia (Serbia and Montenegro))

60. Mr. DIMITRIJEVIC said that the reference to the former Yugoslavia in the first sentence of the section on final observations by members of the Committee might be taken to signify the whole territory of the former Yugoslavia, whereas what was presumably intended was the territory of the present Yugoslavia.

61. Mr. WENNERGREN suggested that, in the first sentence of the section on final observations, the Committee might express regret that no representative of the Republic of Serbia had been present to participate in the dialogue.

62. Mr. AGUILAR URBINA (Rapporteur) said that it would be difficult to include such a sentence, since it did not reflect the view of a majority of Committee members. It would not have been usual to have a representative of a constituent part of a State party.

63. Document CCPR/C/48/CRP.1/Add.13 was adopted.

Document CCPR/C/48/CRP.1/Add.14 (Chapter III. Consideration of reports - Niger)

64. Mrs. EVATT questioned the sense of "customary instances" in the last sentence of paragraph 14.

65. Following an explanation by Mr. AGUILAR URBINA (Rapporteur), Mrs. HIGGINS suggested that "customary instances" should be replaced by "traditional bodies".

66. Mr. PRADO VALLEJO, referring to paragraph 20, said he failed to understand why the State party should need to join various human rights organizations in calling for a settlement of the problem of arbitrary arrests and for the freeing of all those held without charges, as indicated in the latter part of the first sentence. Since the Government was responsible for such arrests, it should be able to decide whether to release the detainees in question. He wondered whether the paragraph accurately reflected the remarks made by the representative of the Niger in that connection.

67. Mr. AGUILAR URBINA (Rapporteur) said that the actual phrase used by the representative of the Niger had been "in order to reach a settlement of the problem of arbitrary arrests and the freeing of all those held without charges".

68. Mr. PRADO VALLEJO, supported by Mr. EL SHAFEI, suggested that the sentence in question should be amended along those lines.

69. Mr. WENNERGREN, referring to the third sentence of paragraph 27, suggested, in order to avoid any confusion, that the word "areas" should be replaced by "respects".

70. Document CCPR/C/48/CRP.1/Add.14, as amended, was adopted.

Document CCPR/C/48/CRP.1/Add.15 (Chapter III. Consideration of reports - Dominican Republic)

71. Mr. PRADO VALLEJO informed members of the Committee that, during a recent visit to the Dominican Republic, he had met the President and conveyed the Committee's grave concern with regard to Decree No. 233, which allowed for the expulsion of Haitian minors and elderly people in the most deplorable conditions. He had requested the President to annul that Decree, thereby ending such flagrant violations of the human rights protected by the Covenant. The President had acceded to his request and the Decree had since ceased to have effect. That was ample proof of the Dominican Republic's commitment to human rights and willingness to assist the Haitian community working in the country on sugar plantations.

72. Mrs. HIGGINS drew attention to a discrepancy between paragraph 26 and paragraph 11 concerning the misunderstanding that had arisen in connection with communication No. 193/1985. She suggested that paragraph 11 should be redrafted to the effect that the State party, having received no documentation, had requested the Committee to make a further recommendation, as indicated in paragraph 26.

73. Mr. POCAR observed that the paragraph summarizing the final remarks by the Chairman of the Committee had been omitted.

74. The CHAIRMAN suggested that a new paragraph reflecting his remarks should be inserted after paragraph 27 and that paragraphs 28 and 29 should be renumbered accordingly.

75. Document CCPR/C/48/CRP.1/Add.15, as amended, was adopted.

Document CCPR/C/48/CRP.1/Add.16 (Chapter III. Consideration of reports - Uruguay)

76. Mrs. EVATT, referring to paragraph 10, said that in the third and fourth sentences "her" should be corrected to read "his" wherever it appeared.

77. Making a general comment with regard to the consideration of reports, she suggested that it might be useful for the Working Group under article 40 to examine the relationship between the concluding observations of individual members and the final comments of the Committee as a whole.

78. The CHAIRMAN said that the issue had already been raised at the previous meeting of the Bureau, which had decided to refer the matter to the Working Group at its next meeting.

79. Miss CHANET endorsed Mrs. Evatt's remarks. She said that one instance where the views of individual members had not been accurately reflected was paragraph 24, which dealt with the Statutory Limitations Act passed in Uruguay. The negative effects of the enactment of the Act, in particular with regard to communications, had been a cause of grave concern among members of the Committee; however, that had not been mentioned in paragraph 24.

80. Mr. AGUILAR URBINA (Rapporteur) said that Miss Chanet had made a valid point. It was true that more information concerning communications involving Uruguay should have been included. In view of the number of similar discrepancies brought to his attention, a review of the Committee's working methods was clearly urgently required.

81. Mr. BRUNI CELLI said that the first sentence of paragraph 27 seemed to imply that the coup d'état was permissible under the Constitution in force in 1973. To his recollection, members of the Committee had observed that at that time in Uruguay there had been no appropriate constitutional safeguards, and he suggested that the sentence should be amended to reflect those remarks.

82. Document CCPR/C/48/CRP.1/Add.16 was adopted, subject to those comments and amendments.

Document CCPR/C/48/CRP.1/Add.17 (Chapter III. Consideration of reports - Guinea)

83. Miss CHANET, supported by Mrs. HIGGINS, requested that comments made in connection with article 27 during the consideration of Guinea's report should be reflected under the section dealing with concluding observations by individual members.

84. Mr. WENNERGREN drew attention to a discrepancy between paragraph 24 and paragraph 28 concerning the number of refugees living in Guinea and sought clarification in that regard.

85. Mr. AGUILAR URBINA (Rapporteur) explained that the figure of 300,000 indicated in paragraph 24 was based on the information available at the time when the list of issues had been drawn up, while the figure of 485,000 given

in paragraph 28 reflected the statistics provided by the delegation of Guinea during its dialogue with the Committee. The figures would be corrected as appropriate.

86. Document CCPR/C/48/CRP.1/Add.17, as amended, was adopted.

Document CCPR/C/48/CRP.1/Add.18 (Chapter III. Consideration of reports - Ireland)

87. Mr. AGUILAR URBINA (Rapporteur) said that references to "nomads" or the "nomad community" in the Spanish text should be aligned with the English version to read "travellers" and "travelling community" respectively, which was the term normally used in Ireland for such persons.

88. Document CCPR/C/48/CRP.1/Add.18, as amended, was adopted.

The meeting rose at 6 p.m.